THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2303 OF 2006

Dated: 10-02-2006

Between

Sk. Shamshad Begum, W/o. Late

Dr. M. Basheer Ahmed, D/o.4/268,

Bunglaw Street, Rajampet, Kadapa

District.

...PETITIONER

AND

The District Collector, Kadapa,

Kadapa District and others.

...RSEPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to direct the respondents not to demolish her house bearing Door No.3/13 and 3/13-A of Rajampet, Kadapa District without due process law.

Learned counsel for the petitioner submits that the petitioner is the owner of the house bearing Door Nos.3/13 and 3/13-A, Rajampet, Kadapa District having purchased the same under a registered sale deed dated 03.12.1975. The learned counsel further submits that in the month of December 2002 the Revenue authorities made an attempt to demolish the house of the petitioner for road widening without following due process of law. Therefore, the petitioner filed WP.No.25665 of 2002 and obtained orders on 03.01.2003 not to demolish and not to evict her without due process of law.

Learned counsel for the petitioner further submits that on 27.01.2006 the respondents orally informed the petitioner that they would demolish her house on the ground that they are not parties to WP.No.25665 of 2002. The said writ petition was disposed of directing the respondents therein viz. Revenue Divisional Officer and Mandal Revenue Officer of Rajampet and the Secretary, Gram Panchayat, Rajampet, not to demolish the petitioner's house without either following due process of law or private negotiations and the order would not preclude the respondent – Gram Panchayat to negotiate with the petitioner and if the petitioner consents to give the property in question, it is open for the respondent – Gram Panchayat to acquire the same in accordance with law.

I am of the opinion that the said direction equally applies to the respondents herein. If the property of the petitioner is required for the purpose of road widening the respondents are bound to follow due procedure prescribed in law. No doubt, the program of road widening is in the public interest but if any private property is coming in the way of road widening the authorities are bound to take appropriate steps to acquire the said land by way of initiating the proceedings under the Land Acquisition Act or by private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the petitioner's house bearing Door No.3/13 and 3/13-A, Rajampet, Kadapa District without following due process of law. However, this order will not preclude the third respondent to negotiate with the petitioner and if the petitioner consents to give the property in question, it is open for the respondents to acquire the same in accordance with law.

_____

V. ESWARAIAH, J

February 10, 2006

DSK